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8 Attorneys for Defendant
CALIFORNIA-AMERICAN WATER COMPANY, dba
CALIFORNIA AMERICAN WATER, a California
9 corporation

10 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA -
11 SAN JOSE DIVISION

12 SIERRA CLUB, a not-for-profit California
13 Corporation, and CARMEL RIVER
STEELHEAD ASSOCIATION,

14 Plaintiffs,

15 vs.

16 CALIFORNIA AMERICAN WATER
17 COMPANY, dba CALIFORNIA AMERICAN
WATER, a California Corporation,

18 Defendant,

19 GARY LOCKE, SECRETARY OF THE
20 UNITED STATES, DEPARTMENT OF
COMMERCE, in his official capacity,
21 Defendant (Joinder under FRCP 19(a) as a
Necessary Party)
22 and

23 DR. JANE LUBCHENKO,
ADMINISTRATOR, NATIONAL OCEANIC
24 AND ATMOSPHERIC ADMINISTRATION,
in her official capacity, Defendant (Joinder
25 under FRCP 19(a) as a Necessary Party) and

26 RODNEY McINNIS, REGIONAL
ADMINISTRATOR, SOUTHWEST REGION,
27 NATIONAL MARINE FISHERIES SERVICE,
in his official capacity, Defendant (Joinder
28 under FRCP 19(a) as a Necessary Party).

Case No. CV 09 2870 JF RS

**STIPULATION RE: TIME FOR FILING
RESPONSIVE PLEADING AND FOR NEW
HEARING DATE AND BRIEFING
SCHEDULE ON PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION;
[PROPOSED] ORDER**

Plaintiffs SIERRA CLUB and CARMEL RIVER STEELHEAD ASSOCIATION (collectively, "Plaintiffs"), Defendant CALIFORNIA-AMERICAN WATER COMPANY, dba CALIFORNIA AMERICAN WATER ("CAW"), and Defendants GARY LOCKE, SECRETARY OF THE UNITED STATES, DEPARTMENT OF COMMERCE, in his official capacity, DR. JANE LUBCHENKO, ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, in her official capacity, and RODNEY MCINNIS, REGIONAL ADMINISTRATOR, SOUTHWEST REGION, NATIONAL MARINE FISHERIES SERVICE, in his official capacity (collectively, "Agency Defendants") (Plaintiffs, CAW, and the Agency Defendants are collectively referred to herein as the "Parties") hereby stipulate, by and through their respective counsel, as follows:

RECITALS

1. Plaintiffs' Complaint and Motion for Preliminary Injunction ("Motion") were simultaneously filed in this court on June 25, 2009, and a hearing date of August 14, 2009, was set by Plaintiffs on the Motion;

2. Due to the process server's defective service of the summons, Complaint and pleadings relating to the Motion, Plaintiffs and CAW have stipulated that service on CAW will be effective as of July 13, 2009;

3. Plaintiffs and CAW subsequently agreed that dates for the filing of CAW's responsive pleading, and for the briefing and hearing of the Motion, should be set by stipulation subject to the Court's availability, and that CAW's responsive pleading shall be filed and served by August 17, 2009;

4. On July 16, 2009, the secretary to CAW's counsel (Kay Newsome) spoke to the court clerk for the Honorable Jeremy Fogel, in Courtroom 3 of the above-entitled court, and confirmed the Court's availability to hear the Motion on Friday, September 18, 2009, and reserved that date for the hearing on Plaintiffs' Motion. The clerk further informed Ms. Newsome that a Stipulation should be submitted to the Court to confirm the Parties' agreement to that date;

5. The Parties therefore enter into the following Stipulation and jointly seek the Court's approval of the following responsive pleading, briefing and hearing schedule:

STIPULATION

1. Plaintiffs and CAW hereby stipulate that CAW's responsive pleading shall be served and filed on or before **August 17, 2009**.

2. The Parties stipulate that the hearing date on Plaintiffs' Motion shall be set, subject to the Court's (confirmed) availability, for 9:00 a.m., on Friday, **September 18, 2009**.

3. The Parties further stipulate to the following briefing schedule on Plaintiffs' Motion:

- a. Opposition Briefs to be filed and served by Friday, **August 21, 2009**; and
- b. Reply Brief to be filed by Friday, **September 4, 2009**.

Dated: July 21, 2009

CALIFORNIA ENVIRONMENTAL LAW PROJECT

By: /s/ Laurens H. Silver

LAURENS H. SILVER
Attorneys for Plaintiffs
SIERRA CLUB and CARMEL RIVER
STEELHEAD ASSOCIATION

Dated: July 21, 2009

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: /s/ Sandi L. Nichols

SANDI L. NICHOLS
Attorneys for Defendant
CALIFORNIA-AMERICAN WATER
COMPANY, dba CALIFORNIA
AMERICAN WATER

1 Dated: July 21, 2009

UNITED STATES DEPARTMENT OF JUSTICE

2 By: /s/ Jay Govindan

3 JAY GOVINDAN

4 Attorneys for Defendants

5 GARY LOCKE, SECRETARY OF THE
UNITED STATES, DEPARTMENT OF
COMMERCE, in his official capacity;

6 DR. JANE LUBCHENKO,

ADMINISTRATOR, NATIONAL

7 OCEANIC AND ATMOSPHERIC

ADMINISTRATION, in her official

8 capacity; and RODNEY MCINNIS,

REGIONAL ADMINISTRATOR,

9 SOUTHWEST REGION, NATIONAL
MARINE FISHERIES SERVICE, in his

10 official capacity

11
12 Attestation Regarding Signature: This document is being filed electronically under my user
13 ID and Password. Pursuant to General Order 45, section XB, I hereby attest that concurrence in
14 the filing of this document has been obtained from each of the other signatories to this document.

15 I declare under penalty of perjury under the laws of the United States that the foregoing is
16 true and correct and was executed on July 21, 2009, in San Francisco, California.

17 /s/ Sandi L. Nichols

18 SANDI L. NICHOLS

[PROPOSED] ORDER

Based upon the foregoing Stipulation of the Parties, the Court hereby adopts the schedule set forth above for the filing and service of CAW's responsive pleading, and for the briefing and hearing schedule on Plaintiffs' Motion for Preliminary Injunction.

IT IS SO ORDERED.

DATED: July 22, 2009


The Honorable Jeremy Fogel
United States District Court Judge